

CHAPTER 34
VEHICLES SUBJECT TO REGISTRATION

[Prior to 12/17/86, Revenue Department[730]]

701—34.1(422,423) Definitions.

34.1(1) A “*vehicle subject to registration*” shall mean any vehicle subject to registration pursuant to Iowa Code section 321.18. This includes every motor vehicle, trailer and semitrailer when driven or moved upon a highway with certain exceptions as stated in Iowa Code section 321.18. This also includes new and used motor vehicles for the purpose of the administration of Iowa Code chapters 422 and 423; a modular home shall not be considered a vehicle subject to registration, but rather a modular home shall be subject to the provisions of Iowa Code chapters 422 and 423 pertaining to sales and use tax on sales of tangible personal property.

34.1(2) “*Dealers*” shall be persons licensed to sell vehicles subject to registration.

34.1(3) “*Taxable price*” shall be the total delivered price of the vehicle less cash discounts, trade-in allowances, and any manufacturer’s cash rebate to a purchaser which is applied to the purchase price of a vehicle. The total delivered price shall include all accessories, additional equipment, services, freight and manufacturer’s tax, valued in money, whether paid in money or otherwise. Gasoline, separately itemized, shall not be subject to use tax.

34.1(4) *Taxable moment.* Rescinded IAB 9/4/91, effective 10/9/91.

This rule is intended to implement Iowa Code sections 422.42(3), 422.43, 423.1(1), 423.2, 423.4(4) and 423.7.

701—34.2(423) County treasurer shall collect tax. It shall be the duty of the county treasurer to collect use tax, when applicable, on vehicles subject to registration. The departmental rules adopted shall apply in the collection of use tax on vehicles subject to registration registered in their respective counties.

701—34.3(423) Returned vehicles. When a vehicle subject to registration is sold and later returned to the seller with the entire purchase price refunded, the purchaser is entitled to a refund of the use tax paid. To obtain a refund the purchaser must be able to show that the entire purchase price was returned and provide proof that the use tax had been paid. See rule 701—30.11(423) for details on claims for refund.

This rule is intended to implement Iowa Code sections 423.1 and 423.7.

701—34.4(423) Use tax collections required. The county treasurer or state motor vehicle registration division shall, before issuing a registration for a vehicle subject to registration, collect use tax due. The issuing office shall remit the tax in its monthly report to the department unless requirements for electronic transmission of remittances and related information specify otherwise.

For reports for months starting on or after April 1, 1990, remittances are to be made electronically in a format and by means specified by the department of revenue and finance. Monthly reports are to be made separately from electronic transmission of the remittance. Remittances transmitted electronically are considered to have been made on the date that the remittance is added to the bank account designated by the treasurer of the state of Iowa. The filing of a monthly report and the remittance of the tax are simultaneous acts both of which shall occur for either condition to be met.

This rule is intended to implement Iowa Code section 423.7.

701—34.5(423) Exemptions. An affidavit of exemption may be required if there is reason to believe that the exemption being requested is not within the provisions of one of the exemptions set forth by law or it is believed that the person requesting the exemption will not use the vehicle for one of the exempt purposes. The burden of proof whether an exemption applies shall be upon the person claiming the exemption.

An original registration in Iowa may be issued for a vehicle subject to registration without the collection of use tax only in the following situations, unless exceptions are noted:

34.5(1) When the applicant for an Iowa registration for a vehicle subject to registration has paid to another state a state sales, use or occupational tax on that unit, credit shall be allowed against the Iowa tax due in the amount paid. Credit shall not be allowed when such tax is paid upon equipment rental receipts. If tax paid is equal to or greater than the Iowa tax due, no further tax shall be collected. If tax paid is less than the Iowa tax due, the difference shall be collected by Iowa.

34.5(2) When the consumer applies for registration of a “homemade vehicle subject to registration” built from parts purchased at retail, upon which the consumer paid a tax to the seller, and never before registered. The term “homemade vehicle subject to registration” shall include such things as homemade automobiles, trucks, trailers, motorcycles and motorbikes, but shall not include those vehicles subject to registration which are made by a manufacturer engaged in the business for the purpose of sales or rental.

34.5(3) When a nonresident of Iowa applies for a “nonresident-in-transit” registration for a motor vehicle purchased in Iowa but which the person intends to permanently register in a state other than Iowa.

34.5(4) When vehicles are purchased by any federal or state governmental agency or tax-certifying or tax-levying body of Iowa or governmental subdivision thereof. The exemption shall not apply to vehicles purchased and used in connection with the operation of or by a municipally owned public utility engaged in selling gas, electricity or heat to the general public and, therefore, shall be subject to use tax.

34.5(5) When the purchaser of a vehicle subject to registration in Iowa remits use tax on the taxable price, then moves the vehicle to a foreign state where it is registered in that state and subsequently returns the same vehicle to Iowa where it is again registered. The same purchaser shall have maintained ownership of the vehicle throughout the respective moves from and back to Iowa.

34.5(6) When a vehicle subject to registration is inherited, the county treasurer may require the registrant to set forth the facts before such exemption is granted.

34.5(7) When an applicant for an Iowa registration has moved from another state with intent of changing residency to Iowa and if the vehicle subject to registration was purchased for use in the state from which the applicant moved and was not, at or near the time of such purchase, purchased for use in Iowa.

34.5(8) Vehicles purchased for lease and used outside the state of Iowa. When certain vehicles defined as “motor trucks, truck tractors, road tractors, trailers, or semitrailers” in Iowa Code section 321.1, except vehicles designed primarily for carrying persons, are purchased for the purpose of leasing to a lessee for use outside the state of Iowa, and actually leased to a lessee for use outside Iowa, such vehicles shall be exempt from use tax provided the subsequent sole use in Iowa is in interstate transportation or interstate commerce.

Should a “use,” as defined in Iowa Code subsection 423.1(1) occur in Iowa, subsequent to the leasing to a lessee outside the flow of interstate transportation or interstate commerce, use tax would be owing. The tax, if found to be due, shall be computed on the purchase price.

The tax, if due, shall be paid on or before the last day of the month following the close of the quarter in which a “use” in Iowa, outside the flow of interstate transportation or interstate commerce, did occur. The tax should be paid directly to the Iowa department of revenue and finance.

34.5(9) Vehicles which are transferred from a business which was a sole proprietorship or partnership to a corporation for the purpose of continuing the business if all of the stock of the corporation is owned by the sole proprietor and the sole proprietor’s spouse or by all the partners if the business was a partnership are exempt from tax. This exemption is also applicable if vehicles are transferred from a corporation to a sole proprietorship or partnership formed for the purpose of continuing the business when carried on by the same person or persons who were stockholders of the corporation. This exemption contains the following provisions:

a. If the business transferring the vehicle is a sole proprietorship or partnership, the vehicle must be transferred to a new corporation. For the purposes of this subrule, a corporation is a “new” corporation if, at the time of transfer, the corporation has been incorporated for one calendar year or less.

b. The new corporation must have been formed for the purpose of continuing the business of the sole proprietorship or partnership. The activities of the new corporation must, therefore, be the same as the sole proprietorship or the partnership.

c. The new corporation must be owned 100 percent by the sole proprietor, the sole proprietor’s spouse or all the partners, in the case of a partnership, which is transferring the vehicle.

d. The exemption is equally available when vehicles are transferred from a corporation to a sole proprietorship or to a partnership.

e. In such cases, the newly formed sole proprietorship or partnership must have been formed to continue the business of the corporation. Therefore, the activities of the new entity must be the same as the corporation.

f. The new sole proprietorship or partnership must have owned all the stock in the transferring corporation when the corporation existed.

34.5(10) Purchases of vehicles subject to registration by persons who will rebuild those vehicles into ambulances, rescue, or fire vehicles (as defined in Iowa Code chapter 321) are exempt from tax. These purchases are exempt only if the person purchasing the vehicle for rebuilding into an ambulance, rescue, or fire vehicle is a licensed wholesaler of new motor vehicles. This exemption is applicable only to purchases of vehicles which will be rebuilt into ambulances, rescue, or fire vehicles.

34.5(11) Purchases of vehicles by a licensed vehicle recycler under Iowa Code chapter 321H are exempt from tax. These purchases are exempt as long as the recycler sells only those parts or vehicles for which the recycler is licensed.

34.5(12) Purchase of vehicles by a person regularly engaged in the business of renting vehicles or a vehicle that is registered and titled for rental use by a motor vehicle dealer licensed under Iowa Code chapter 322 for the purpose of short-term automobile rental (see Iowa Code chapter 27) or, effective January 1, 1997, vehicles subject to registration purchased for a long-term vehicle lease of 12 months or more and titled by a lessor licensed pursuant to Iowa Code chapter 321 (see 701—rules 31.5(423) and 32.11(423)).

This rule is intended to implement Iowa Code sections 422.45(5), 423.4(4), and 423.4(9) and Iowa Code section 423.4(16) as amended by 1996 Iowa Acts, chapter 1125.

701—34.6(423) Vehicles subject to registration received as gifts or prizes. Persons receiving motor vehicles subject to registration as gifts or prizes are not obligated to pay use tax on the purchase price of those vehicles.

This rule is intended to implement Iowa Code sections 423.1(2) and 423.2.

701—34.7(423) Titling of used foreign vehicles by dealers. Licensed auto dealers shall not be required under the motor vehicle “title” law to register used foreign motor vehicles but shall be required to secure a title for such units within 48 hours after they arrive in this state. When applying for a title on such foreign-used vehicles, dealers shall execute and file a dealer’s resale affidavit, in duplicate, with the office issuing the title. The original shall be forwarded to the department along with the monthly use tax report, and the copy shall be retained by the issuing office.

701—34.8(423) Dealer’s retail sales tax returns. Sales of new or used motor vehicles and trailers, as defined, are expressly exempt from sales tax, as the law imposes use tax on new or used motor vehicles and trailers. If the dealer holds a sales tax permit, the dealer shall include on the sales tax return the gross receipts from sales of new or used motor vehicles and trailers and then take appropriate deductions in the section provided on the return.

701—34.9(423) Affidavit forms. Forms of affidavit required to establish purchase price, lease price, or exemption shall be furnished by the department and shall be available upon request.

The affidavit for the total delivered purchase price or lease price of a motor vehicle or trailer shall be established by the application for certificate of title and registration and a manufacturer’s statement of origin. Before a motor vehicle or trailer, purchased outside the state, is registered, the county treasurer must be satisfied that the information stated in the affidavit is true and correct.

Affidavits of exemption which are not correct in both substance and form shall not be accepted by the county treasurer, the motor vehicle division or the department in lieu of use tax. In case of doubt, the county treasurer or motor vehicle division shall collect tax. Claim for refund may be filed by the taxpayer if the taxpayer believes tax has been erroneously collected.

Rules 34.1(422,423) to 34.9(423) are intended to implement Iowa Code chapter 423 and Iowa Code section 423.7A as amended by 1996 Iowa Acts, chapter 1125.

701—34.10(423) Exempt and taxable purchases of vehicles for taxable rental. If a vehicle subject to registration is purchased for rental, and the gross receipts from that rental will be taxable, the purchase price of this vehicle is not exempt from use tax except under the circumstances set out in rules 701—32.11(423) and 32.12(423).

The purchase for rental is not a purchase of tangible personal property for resale because a lease or rental of tangible personal property is not a sale: *Cedar Valley Leasing, Inc. v. Iowa Department of Revenue*, 274 N.W.2d 357 (Iowa 1979); and the exemption allowed from tax for the use in Iowa of tangible personal property to be rented is not applicable to the use tax on motor vehicles because excluded from that exemption are vehicles subject to registration. See Iowa Code sections 422.45(18), 423.4(4), 423.4(14), 423.4(15), and 423.4(16).

This rule is intended to implement Iowa Code sections 422.45(2), 422.45(18), 423.4(4), and 423.4(16) as amended by 1996 Iowa Acts, chapter 1125, and Iowa Code chapter 422C.

701—34.11(423) Manufacturer’s refund of use tax to a consumer, lessor, or lessee of a defective motor vehicle. The department shall refund to a motor vehicle manufacturer any Iowa use tax which the manufacturer has refunded to a consumer, lessee, or lessor of a defective motor vehicle as required by Iowa Code section 322G.4, if the manufacturer presents a written request for refund and suitable proof that the use tax was paid at the time of purchase or lease and that the manufacturer refunded the use tax paid. Suitable proof of payment at time of purchase is a copy of a title showing payment of the use tax.

This rule is intended to implement Iowa Code section 322G.4.

701—34.12(423) Government payments for a motor vehicle which do not involve government purchases of the same. If a dealer or other seller transfers title to a vehicle under a contract of sale to a buyer, payment by a government of all or part of the purchase price of the vehicle is not a sale of that vehicle to the government making the payment, and the entire purchase price of the vehicle is subject to use tax.

EXAMPLE: A disabled veteran is purchasing a van. The veteran makes an application with the Veterans Administration (V.A.) to help purchase the van for \$30,695. The application is approved and the V.A. prepares a check for \$12,456. The check is paid to the order of the seller of the van. It is also the usual custom for a veteran to apply for a grant to pay some or all of the remainder of the price. If this grant is approved, a check is issued in the name of the veteran. The veteran then either assigns the check to the dealer or deposits the check and writes a personal check to the dealer for the remaining amount due. Under these circumstances, the van is sold to the veteran and not the U.S. government. The purchase price upon which tax is computed is \$30,695.

This rule is intended to implement Iowa Code section 423.7.

701—34.13(423) Transfers of vehicles resulting from corporate mergers and other types of corporate transfers. Corporate mergers often involve the transfer of title to large numbers of vehicles from a merging corporation to a surviving corporation. These transfers generally do not involve the “purchase” of these vehicles, though other transfers of vehicles between corporations may involve purchases of vehicles and thus be subject to use tax. See rule 701—15.20(422,423) for examples of property transfers between corporations which involve mergers without purchases and those non-merger transactions which involve purchases or transfers that may result in an obligation to pay use tax.

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